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**MAY 18 2005**

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
(Case No.00-713-i-12)**

In re Application of:

Mirkin, et al.

Serial No.: 09/975,376

Filed: October 11, 2001

For: Nanoparticles Having Oligonucleotides  
Attached Thereto and Uses Therefor

Examiner: Cynthia B. Wilder

Group Art Unit: 1637

Conformation No. 9821

**CERTIFICATE OF FACSIMILE TRANSMISSION**

FACSIMILE NO: 1-571-273-0791

TELEPHONE NO. 1-571-272-0791

(Total Number of Pages, including this sheet: 2)

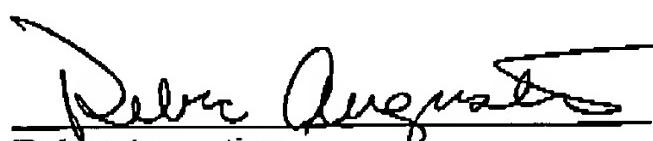
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**ATTENTION: Examiner Cynthia B. Wilder**

Madam:

The undersigned hereby certifies that this paper and every paper referred to therein as being enclosed is being transmitted by facsimile to the Assistant Commissioner for Patents, Washington, DC 20231, on May 18, 2005 (Date of Deposit).

Date: May 18, 2005

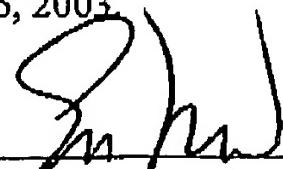


Debra Augustine

Message:

Further to the telephone conversation of yesterday's date, the undersigned representative is sending another copy of the Terminal disclaimer filed on November 6, 2003.

Emily Miao - Reg. No. 35,285



**TERMINAL DISCLAIMER TO OBLIGATE A DOUBLE  
PATENTING REJECTION OVER A PRIOR PATENT**

Docket No. 00-713-i-12

In Re Application of: Mirkin et al.

Application No.: 09/975,376

Filed: Oct. 11, 2001

For: Nanoparticles having oligonucleotides attached thereto and uses therefor

The owner\*, Nanosphere, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173 as shortened by any terminal disclaimer, of prior Patent No. 6,417,340. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of any prior patent, as presently shortened by any terminal disclaimer, in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

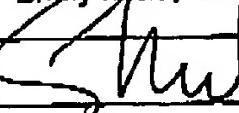
Check either box 1 or 2 below, if appropriate.

1.  For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2.  The undersigned is an attorney or agent of record.

Terminal disclaimer fee (\$ 110 ) under 37 CFR 1.20(d) is included.

Name	McDonnell Boehnen Hulbert & Berghoff
Address	32 <sup>nd</sup> Floor, 300 South Wacker Drive
City, State, Zip	Chicago, Illinois 60606
<u>SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED</u>	
Name / Reg. No.	Emily Mao, Reg. No. 35,285
Signature	
Date	November 6, 2003

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).